

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRITISH TELECOMMUNICATIONS PLC)	
and BT AMERICAS, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 18-1018 (CFC) (MPT)
)	
FORTINET, INC.,)	
)	
Defendant.)	

**DEFENDANT FORTINET’S MOTION TO DISMISS
UNDER RULE 12(b)(1) AND THE DOCTRINE OF *FORUM NON CONVENIENS***

Pursuant to Federal Rule of Civil Procedure 12(b)(1) and the doctrine of *forum non conveniens*, Defendant Fortinet, Inc. hereby moves the Court for an Order dismissing all claims asserted by Plaintiffs British Telecommunications plc (“BT plc”) and BT Americas, Inc. (“BT Inc.”) (collectively, “BT”). The primary basis for Fortinet’s motion is that it and BT are parties to a written contract that contains a mandatory, exclusive forum-selection clause that forbids either side from asserting claims anywhere but the courts of England.

The grounds for this motion are set forth more fully in the accompanying Opening Brief and materials and information cited therein.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jack B. Blumenfeld

Jack B. Blumenfeld (#1014)

Brian P. Egan (#6227)

1201 North Market Street

P.O. Box 1347

Wilmington, DE 19899

(302) 658-9200

jblumenfeld@mnat.com

began@mnat.com

Attorneys for Defendant

OF COUNSEL:

John (Jay) Neukom

James Y. Pak

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

525 University Avenue, Suite 1400

Palo Alto, CA 94301

(650) 470-4500

October 1, 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRITISH TELECOMMUNICATIONS PLC)	
and BT AMERICAS, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 18-1018 (CFC) (MPT)
)	
FORTINET, INC.,)	
)	
Defendant.)	

**[PROPOSED] ORDER GRANTING FORTINET’S MOTION TO DISMISS UNDER
RULE 12(b)(1) AND THE DOCTRINE OF *FORUM NON CONVENIENS***

Currently before the Court is Defendant Fortinet Inc.’s Motion to Dismiss Under Rule 12(b)(1) and the Doctrine of *Forum Non Conveniens*. Having carefully considered the submissions by the parties, the Court finds that good cause exists for the relief requested.

Accordingly:

IT IS HEREBY ORDERED that Defendant Fortinet Inc.’s Motion to Dismiss the Complaint Under Rule 12(b)(1) and the Doctrine of *Forum Non Conveniens* is **GRANTED** in its entirety. Counts I, II, III, IV, and V of the Complaint are hereby dismissed.

IT IS SO ORDERED.

Dated: _____

Hon. Colm F. Connolly
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on October 1, 2018, upon the following in the manner indicated:

Philip A. Rovner, Esquire
Jonathan A. Choa, Esquire
POTTER ANDERSON & CORROON LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
Attorneys for Plaintiffs

VIA ELECTRONIC MAIL

James H. Shalek, Esquire
Baldassare Vinti, Esquire
Nolan M. Goldberg, Esquire
Fabio E. Tarud, Esquire
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036-8299
Attorneys for Plaintiffs

VIA ELECTRONIC MAIL

/s/ Jack B. Blumenfeld

Jack B. Blumenfeld (#1014)